

[AIRCRAFT/AIRCRAFTS] SALE AND PURCHASE AGREEMENT

BETWEEN

ALITALIA - LINEE AEREE ITALIANE S.P.A. IN A.S., with registered office in Rome, at viale Alessandro Marchetti No. 111, share capital of Euro 1.297.299.811,89, fiscal code and registration number at the Companies' Registry of Rome 00476680582, represented by [*Prof. Avv. Augusto Fantozzi, born in Rome on 24 June 1940, in his capacity as Extraordinary Commissioner*] (hereinafter, "AZ" or the "Seller");

[AND/OR]

ALITALIA EXPRESS S.P.A. IN A.S., with registered office in Rome, at viale Alessandro Marchetti No. 111, share capital of Euro 23.400.000,00, fiscal code and registration number at the Companies' Registry of Rome 05143121001, represented by [*Prof. Avv. Augusto Fantozzi, born in Rome on 24 June 1940, in his capacity as Extraordinary Commissioner*] (hereinafter, "AZ Express" or the "Seller");

- on one side-

AND

[●], with registered office in [●], share capital [●], registered at the Companies' Registry of [●] with number [●], fiscal code/ VAT code [●], represented by [●] (hereinafter, the "Purchaser");

- on the other side -

WHEREAS:

- A. On 29th August 2008, AZ was admitted to the extraordinary administration proceedings and Prof. Avv. Augusto Fantozzi was appointed as Extraordinary Commissioner (hereinafter, the "Extraordinary Commissioner") through the decree of the President of the Council of Ministers, dated 29 August, 2008.
- B. The Court of Rome, bankruptcy division, with decision No. 287 of 5 September, 2008, declared the state of insolvency of AZ pursuant to art. 4 of Legislative Decree No. 347 of 23 December, 2003, converted into law and subsequently amended and supplemented by Legislative Decree No. 134 of 28 August, 2008, converted with amendments by Law No. 166 of 27 October, 2008.
- C. On 15 September, 2008, Alitalia Express was also admitted to the extraordinary administration proceedings and Prof. Avv. Augusto Fantozzi was also appointed as Extraordinary Commissioner of the said proceedings. The Court of Rome, bankruptcy division, with a decision dated 25 September, 2008 declared the insolvency of AZ Express.
- D. On 19 November, 2008, the Extraordinary Commissioner submitted to the Ministry of Economic Development (hereinafter, the "Ministry") a sale program drafted pursuant to Article 27, paragraph 2, letter b-bis) of Legislative Decree No. 270 of 8 July, 1999 (hereinafter, the "Sale Program"), which envisages, *inter alia*, the sale of No. 46 aircrafts still owned by AZ and AZ Express.

- E. By its own decree issued on 19 November, 2008, the Ministry, upon consultation with the supervisory committee, approved the Sale Program and authorized its implementation.
- F. By its own decree issued on 11 December, 2008, the Ministry, in order to implement the provisions of the Sale Program, authorized, upon consultation with the supervisory committee, the Extraordinary Commissioner to commence the sale procedure of the No. 46 aircrafts still owned by AZ and AZ Express, and, upon the conclusion of the sale procedure, to sell the aircrafts, provided that the consideration to be paid is not less than the value attributed to the aircrafts by the appraisal of the independent expert.
- G. Thereafter, the Extraordinary Commissioner on 23 December, 2008, published a call for expression of interest (a) in the Italian language, in the Italian newspaper [●] and, in its full and summary versions, on the internet websites of the procedure www.alitaliaamministrazionestraordinaria.com and www.alitaliaamministrazionestraordinaria.it and (b) in the English language, in the international newspaper [●], in the aviation magazine [●] and, in its full and summary versions, on the above mentioned internet websites of the procedure.
- H. In the context of the sale procedure – after having admitted the interested parties to conduct a due diligence on the relevant aircrafts – a deadline for the submission of the Binding Offers relating to the aircrafts belonging to the Lots indicated in the above call for expressions of interest under No. 1, 6, 7 and 8, was set at 12.00 noon on 10 July, 2009.
- I. Following the expiration of the term for the submission of the Binding Offers, the Extraordinary Commissioner, in a public session and at the presence of the public notary Andrea Fedele of Rome (who drafted the minutes, Repertory No. [●]) opened the envelopes which included the offer documents and – due to the lack of their conformity to the terms and conditions set out under the Procedure Letter and/or the fact that the Consideration offered was below the value attributed to the Aircrafts in the appraisal of the expert appointed pursuant to Article 62 of the Legislative Decree No. 270 of 1999 – did not award any of the Lots.
- J. Following the non-awarding of the aircrafts listed into the Lots No. 1, 6, 7 and 8 of the Call for Expressions of Interest dated 23 December, 2008, the Extraordinary Commissioner requested to the Ministry of Economic Development the authorization to commence a new phase of the procedure for the sale of the aircrafts belonging to the Lots No. 1, 6, 7 and 8.
- K. On 17 July, 2009, upon consultation with the Supervisory Committee, the Ministry of Economic Development authorized the implementation of the new phase of the procedure for the sale of the aircrafts listed into the Lots No. 1, 6, 7 and 8 pursuant to the terms and conditions indicated (a) in the Notice published on 22 July, 2009 on the newspapers Il Corriere della Sera and The Financial Times; and (b) in the call for expressions of interest and in the other documents published on the same date on the internet websites of the Extraordinary Administration Procedure (www.alitaliaamministrazionestraordinaria.it and www.alitaliaamministrazionestraordinaria.com) (hereinafter, the “**Call for Expressions of Interest**”).
- L. The Extraordinary Commissioner sent to the interested parties a procedure letter specifying the terms and conditions for the submission of a binding offer for the purchase of the aircrafts listed into the lots 1, 6, 7 and 8, which had to be submitted by 15.00 (Italian time) on 30 July, 2009 (hereinafter, the “**Binding Offer**”). All the Binding Offers submitted after such term had to be excluded.

- M. Thereafter, the Extraordinary Commissioner, in a public session and at the presence of the public notary [●] (who drafted the minutes, Repertory No. [●]), opened the sealed envelopes identified through the wording “Economic Offer” and awarded each lot of aircrafts to the offeror which offered the highest consideration (subject to the condition that such consideration was not lower than the value attributed by the expert appointed by the Extraordinary Commissioner pursuant to art. 62 of Legislative Decree No. 270 of 8 July 1999) [**NOTE: DESCRIBE THE PRIVATE AUCTION PHASE, IF IT TOOK PLACE**].
- N. In relation to the aircrafts [●][●][●][●][●][●], included into the Lot/Lots No. [●][●][●][●] the Binding Offer submitted by the Purchaser was found by the Extraordinary Commissioner to be the highest between those which had been submitted pursuant to the terms and conditions provided for their submission, and, therefore, the Purchaser has been awarded such Aircrafts [**NOTE: DESCRIBE THE PRIVATE AUCTION PHASE, IF IT TOOK PLACE**].
- O. The consideration offered by the Purchaser in relation to the Aircrafts subject of his Binding Offer and of this sale and purchase agreement is not lower than the value attributed under the sworn valuation report issued by the expert appointed by the Extraordinary Commissioner pursuant to art. 62 of Legislative Decree No. 270 of 8 July, 1999.
- P. The Parties, therefore, intend to enter into a sale and purchase agreement for the [*aircraft / aircrafts*] specified under premise No. N, pursuant to the terms and conditions set out under this agreement (hereinafter, the “**Agreement**”).

**NOW THEREFORE,
THE PARTIES MUTUALLY AGREE UPON THE FOLLOWING:**

1. PREMISES

- 1.1 The above premises shall be deemed to be part of this Agreement.

2. SUBJECT OF THE AGREEMENT

- 2.1 Pursuant to the terms and conditions set forth under this Agreement, the Seller sells and transfers to the Purchaser, who accepts and purchases and acquires the ownership [*of the following aircraft/of the following aircrafts*] (hereinafter, the “**Aircraft** / the “**Aircrafts**”):

[**INSERT THE INFORMATION RELATING TO THE AIRCRAFT / AIRCRAFTS**]

- 2.2 The consideration for the sale [*of the Aircraft / of the Aircrafts*] is irrevocably set to be of Euro [●] (*[in letters]*) (hereinafter, the “**Consideration**”), plus taxes.

[**IN THE EVENT OF MORE THAN ONE AIRCRAFT, INDICATE THE CONSIDERATION TO BE PAID FOR EACH AIRCRAFT**]

The Parties mutually acknowledge and represent that the Consideration to be paid by the Purchaser for the purchase [*of the Aircraft / of the Aircrafts*] has been fully paid to the Seller upon execution of this Agreement, by way of a bank transfer of immediately available funds to the current account indicated by the Seller. Therefore, the Seller, by signing this Agreement, gives receipt of the payment.

3. **FACTUAL AND LEGAL STATE OF THE AIRCRAFTS**

3.1 The Seller hereby represents and warrants to the Purchaser its free and clear title on the [*the Aircraft / the Aircrafts*] providing the guarantee for eviction, it being understood that the cancellation of any lien relating to [*the Aircraft / the Aircrafts*] pursuant to Article 64 of Legislative Decree No. 270 of 8 July, 1999, shall be carried out at the Purchaser's own expenses and responsibility, it being agreed that the Seller shall cooperate with the Purchaser for the submission of the relevant request to the Ministry.

3.2 With the sole exception of the warranty set forth under article 3.1 above, the Seller does not provide any further representations and/or warranties in connection with the sale and purchase of [*the Aircraft / the Aircrafts*], any defects in the same, including latent defects, absence of qualities of [*the Aircraft / the Aircrafts*] and/or "*aliud pro alio*". The purchase of the Aircraft will take place on an "as is" basis, in their current factual and legal state, which is presumed to have been "seen and accepted" ("*visti e piaciuti*") by the Purchaser. In particular, the Purchaser hereby represents to have full knowledge of the current factual and legal state of [*the Aircraft / the Aircrafts*] and to have also considered, in view of entering into this Agreement, all the burdens, liabilities, obligations and risks which may arise pursuant to the applicable laws or under any agreement, in connection with the purchase of [*the Aircraft / the Aircrafts*]. In any case, in relation to any legal and contractual effect which may arise, the Purchaser hereby represents and acknowledges to have decided to enter into this Agreement following a free and independent evaluation of the Purchaser of the benefits to be derived by it and of the risks associated with such purchase. The Purchaser hereby also declares to purchase [*the Aircraft / the Aircrafts*] at his own risk, to release any current or future objection which may arise in connection thereof, and to waive the right to raise any claim towards the Seller, including those in connection with any indemnity and the termination of the Agreement.

4. **TRANSFER OF POSSESSION**

4.1 The Purchaser, as a consequence of the execution of this Agreement, enters into the possession of [*the Aircraft / the Aircrafts*] and of all the documents pertaining to [*the Aircraft / the Aircrafts*] which are in the possession of the Seller, it being understood that, if any of the above-mentioned documents are missing or not delivered, this would not be considered a cause for any objection, claim or request by the Purchaser towards the Seller. The Seller and the Purchaser, through the execution of this Agreement, acknowledge and confirm that [*the Aircraft has been delivered / the Aircrafts have been delivered*] by the Seller in [*the place where they are currently located*][●] and that [*it has been accepted / they have been accepted*] by the Purchaser; therefore, this Agreement shall substitute and, be considered as, the minutes of delivery and for its acceptance, certifying the date and time of the above-mentioned delivery.

4.2 Therefore, as from the date of execution of this Agreement, all the expenses, costs, burdens and risks in connection with the ownership, the possession, the use, the maintenance and the preservation of [*the Aircraft / the Aircrafts*] shall be borne by the Purchaser.

5. **OTHER OBLIGATIONS AND REPRESENTATIONS BY THE PURCHASER**

5.1 The Purchaser acknowledges that no right on the distinctive marks “Alitalia” and “Alitalia Express” will be transferred by the Seller. The Purchaser, therefore, hereby undertakes to refrain from using the distinctive marks “Alitalia” and “Alitalia Express”, and to replace, at its own expense and responsibility, immediately following the purchase [*of the Aircraft / of the Aircrafts*] and, in any case, before [*the Aircraft / the Aircrafts*] leave the territory of Italy, the livery [*of the Aircraft / of the Aircrafts*] and to remove any other distinctive mark on/in [*the Aircraft / the Aircrafts*].

5.2 Moreover, the Purchaser represents:

- a) that the execution and performance of this Agreement is not subject to any authorization or approval by the Purchaser’s competent corporate bodies or by any regulatory or administrative authority, or to any other authorization or approval;
- b) that it is not subject to any insolvency or winding-up proceedings, and that no insolvency proceeding or action which may result in a bankruptcy proceeding has been commenced or threatened in writing to be commenced;
- c) that all the data and information provided by the Purchaser in connection with the Aircraft sale procedure subject of the Call for Expression of Interest are true and correct;
- d) to have full knowledge of the Italian, EC and regulatory laws related to aeronautics, to have full understanding of the investment to be carried out and of any risk in connection thereof and to assume all burdens and risks in connection to the registration in Italy, or in different non-Italian registers, of the Aircrafts;
- e) that on the date hereof the Seller has returned to the Purchaser the guarantee issued in the form of [●] in the interest of the Purchaser as a guarantee of the performance of the undertakings set out under the Binding Offer.

6. **GENERAL PROVISIONS**

6.1 The Purchaser acknowledges and accepts that all the translations into the English language of the documents related to the sale procedure of the aircrafts subject of the Call for Expression of Interest and to the same Aircrafts, and of this Agreement, were drafted in order to allow the participation of potential purchasers of foreign language and that, in the event of discrepancy, the Italian texts shall prevail.

6.2 None of the Parties may transfer this Agreement or the rights arising in connection thereof without obtaining the prior written consent of all the other Parties.

- 6.3 Any amendment to this Agreement shall not be deemed to be valid and binding without it being executed by way of a written deed signed by all the Parties against whom the amendment is claimed.
- 6.4 Each Party shall bear the expenses and costs due to its advisors and consultants which have been instructed to negotiate, draft and execute this Agreement and the other agreements relating to this transaction.
- 6.5 All the taxes and expenses arising from the execution of this Agreement shall be borne by the Purchaser. The carrying out and completion of any act or formality, also at the public registries, in connection with the sale of [*the Aircraft / the Aircrafts*] subject of this Agreement, including, in particular, all the required recordings and registrations, shall be borne at the Purchaser's own expenses and responsibility. The Parties mutually consent, as an effect deriving from the execution of this sale, to the registration of this Agreement by the competent aviation authority in favour of the Purchaser, and release such authority from any potential liability in connection thereof.
- 6.6 This Agreement is governed by Italian law.
- 6.7 The Court of Rome shall have exclusive jurisdiction over any dispute that may arise between the Parties in connection with this Agreement.
- 6.8 Upon request made by the Parties this Agreement shall be kept in the records of the public notary who has notarized it.

[Legalized signatures]